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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,172	03/15/2002	Georg Weihrach	18916.2	1483

7590 03/10/2005

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EXAMINER

BAHTA, ABRAHAM

ART UNIT	PAPER NUMBER
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1775

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,172

Applicant(s)

WEIHRAUCH, GEORG

Examiner

Abraham Bahta

Art Unit

1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03/15/02
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Specification

The specification on page 18, line 3 describes the bristle carrier as 13 and page 18, line 6 a peripheral bridge as 13 and on line 23 a peripheral bridge as 13b. It is not clear what reference sign(s) 13 and 13b represent. Correction is requested.

Claim Objections

In claim 46 change "formed as a cap" to –cap-shaped–.

Claim Rejections - 35 USC § 112

Claims 40-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 40-41 the phrase "can be" is not a positive limitation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Burlew (USP 1,770,195).

Burlew teaches a toothbrush comprising a base, a bristle supporting member made of rubber supporting a plurality of bristles wherein the bristle support member is

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placed over the base and the base is further provided with a recess. See col. 2, lines 58-74.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 32-38, 40-47 and 49-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burlew '195.

Burlew is discussed above. Burlew does not require the damping fluid; however, providing a fluid or a foam insert soaked with a medium in a brush cavity is well known as shown by Caldwell '074. Caldwell teaches a brush in the form of a container comprising a bottom wall and extending from the bottom wall are integrally formed brush elements. Further, Caldwell teaches small apertures are formed between the brush elements in the bottom wall and a sponge element is provided inside the container for retaining a medium. See col. 1, lines 48-71.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a fluid or the desired medium in the toothbrush cavity of Burlew in order to facilitate the cleaning of a surface.

Claim 34: Caldwell teaches small apertures are formed between the brush elements in the bottom wall. See col. 1, lines 48-71.

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Claim 35: Burlew does not require subdividing the cavity into separate chambers; however, it is within the judgment of the skilled artisan to have subdivided the toothbrush cavity of Burlew into separate chambers so that different medium may be received in the chambers.

Claim 36: Caldwell teaches a sponge is provided inside the container.

Claims 56-57: Burlew teaches the rubber base is molded with upwardly extending tubular bristle supporting member. See col. 2, lines 66-74.

Claim Rejections - 35 USC § 103

Claims 39 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burlew '195 in view of Sherrod (USP 3,864,047).

Burlew discussed above, does not require a removable bristle support; however, constructing a toothbrush having removable bristle support is well known as shown by Sherrod '047. Sherrod '047 teaches a toothbrush having a detachable head. See col. 1, lines 42-44. Sherrod further teaches a dispensing or fountain toothbrush having a brush holder to which paste tube is removably attached in side of a sleeve which serves as a handle and a chamber for paste in the brush holder communicates with passage leading to the brush bristles and this passage is normally blocked by a spring urged valve or plunger. See col. 2, lines 7-31.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the bristle support of Burlew in a

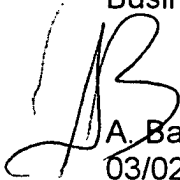
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removable/detachable fashion so the brush head or bristle support may be exchangeable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abraham Bahta whose telephone number is (571) 272-1352. The examiner can normally be reached on Monday - Friday; 11:30 am - 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


A. Bahta
03/02/05


JOHN KLEIN
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